

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ELISA FELICIANO, *et al.*,

Plaintiffs,

MEMORANDUM AND ORDER

-against-

CV 15-697 (LDW) (AKT)

COUNTY OF SUFFOLK, *et al.*,

Defendants.

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WEXLER, District Judge

Upon trial of the above-captioned action, Plaintiff Hector Feliciano (“Feliciano”) recovered nominal damages of \$1 against defendant police officer Kevin Thomann (“Officer Thomann”) for excessive force. Feliciano now moves for an award of attorney’s fees under 42 U.S.C. § 1988. Docket Entry (“DE”) 69. In response, defendants request that the Court either decline to consider the motion (for being filed in violation of the Court’s individual motion practices) or grant defendants additional time to submit opposition papers. *See* DE 71. The Court has reviewed Feliciano’s motion and finds that he is not entitled to an award of attorney’s fees. Consequently, no further briefing is required.

Feliciano recovered \$1 in nominal damages on only one claim (excessive force) against only one of the three individual defendant police officers. Despite seeking \$1 million against all three officers on this claim, as per the Amended Complaint, the jury found in favor of defendant police officers Daniel Fandrey and Francis Gigante and awarded Feliciano only \$1 against Officer Thomann. Although Feliciano technically is a

prevailing party, *see Farrar v. Hobby*, 506 U.S. 103 (1992), this case is not one of those rare cases where the award of nominal damages nevertheless calls for an award of attorney's fees, especially given that Feliciano achieved no other result. *See, e.g., Pino v. Locascio*, 101 F.3d 235, 237 (2d Cir. 1996) (holding that "under *Farrar v. Hobby* attorney's fees and costs are usually not appropriate when a plaintiff recovers only nominal damages," and determining that district court erred in awarding attorney's fees in civil rights action where plaintiff only recovered \$1 in nominal damages). Accordingly, the motion for attorney's fees is denied.

SO ORDERED.

\_\_\_\_\_/s/\_\_\_\_\_  
LEONARD D. WEXLER  
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York  
October 4, 2017